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SUBJECT: EU CONSULAR CONFERENCES ILLUSTRATE IMPACT OF LISBON TREATY

REF: USEU BRUSSELS 1414

**¶1.** (U) Summary: The USEU senior consular representative attended two EU consular seminars in November as an observer. The first concerned consular assistance to EU nationals in third countries and the second, international adoptions. The object of both conferences was to move toward harmonizing member states' regulations in these areas, which could ultimately impact U.S. coordination with the EU on consular services. End Summary.

#### EU Consular Conference - Providing Consular Assistance

**¶2.** (SBU) At the semi-annual, one-day consular seminar hosted by the EU presidency in Stockholm, the theme was providing consular assistance to EU nationals in third countries. Representatives of the EU Presidency, Council and Commission, along with an academic who tracks the evolution of consular diplomacy in the EU made presentations to representatives of 25 of the 27 EU member states there.

**¶3.** (U) The Council Secretariat representative addressed possible changes in how EU countries provide consular assistance outside the EU as the Lisbon Treaty (which came into force December 1) comes into full effect. Changes will depend on whether the new European External Action Service (EEAS) contemplated by the Treaty takes on consular responsibilities, which currently fall to member states (reftel). The speaker also addressed the fact that member states' national laws differ in areas such as responsibility for permanent residents living abroad, which could pose a difficulty during an evacuation. He suggested the possibility of requiring all EU travelers to take out some sort of travelers insurance with the major insurance companies contributing to a "super fund" for evacuations.

**¶4.** (U) Another speaker discussed how the evolution of consular work mirrored the evolution of the relationship of citizens to the state. Provision of consular assistance abroad increased as citizens' expectations of what their governments could and should provide grew. The speaker discussed the emergence of "consular diplomacy," as more high-profile consular cases emerged involving the highest levels of government. In the nineteenth century, consular services were derided as "Cinderella services" but in the twenty-first century, the issue has moved up the diplomatic agenda. This has been reflected in the growth of consular sections and the range of services they provide. Discussing the fact that the public's demands have risen faster than the level of consular services provided, the speaker encouraged member state governments to be active, as opposed to reactive, in terms of deciding what services they are able to provide.

**¶5.** (SBU) The speaker from the EU Commission discussed a recent Commission study, to be published in March, of the

level of overseas consular services provided by the 27 member states to their own citizens and to other EU nationals. The level and scope of services provided -- such as hospitals visits and issuance of emergency travel documents -- differed widely from one member state to another, particularly with respect to consular assistance provided to other EU nationals. The speaker recommended member-state coordination, to avoid their nationals going "consul shopping."

**¶6.** (U) Three break-out groups covered consular assistance for the mentally ill, Article 36 of the Vienna Convention (consular notification of arrest), and "honor crimes." The USEU consular representative attended the session on providing assistance to the mentally ill. A representative of the government of Norway -- one of the non-EU member states present -- spoke about the extensive program in place in Norway in which the traveler's regional health authority assumes responsibility for bringing the traveler back to Norway. In the case of a foreign traveler suffering from mental illness in Norway, the local health authorities reach out to the home country health authorities for information about past treatment, if any. When the patient is ready to travel home, the Norwegian hospital makes arrangements.

**¶7.** (U) The working group on Article 36 noted that there are problems with early notification of arrests to allow consular access, often because law enforcement officials do not know where the arrested traveler is from. The working group on honor crimes noted that it is important to locate the appropriate contacts in the host government where such a crime occurs.

**¶8.** (U) Comment: The discussions throughout the seminar were lively and wide-ranging. Especially interesting were areas such as the growth in the scope of consular services in which E

the U.S. and EU member states face similar phenomena of rising expectations. End comment.

Council of Europe/EU Commission Conference on International Adoptions

**¶9.** (U) The second seminar was a two-day conference on adoption co-sponsored by the Council of Europe and the EU Commission. The conference was attended by EU member-state government officials, adoption organizations, NGOs, attorneys, jurists, adoptive parents and adults who had been adopted as children. The first day addressed national adoptions and the second international adoptions. Both sessions focused on the revised 2008 European Convention on the Adoption of Children, which has been signed by 13 states to date, two of which signed during the conference. When three more states accede to the Convention it will go into force. There were eight panel discussions covering every aspect of the adoption process, all of which stressed the primacy of the child's interests. The EU Commission reported that it was engaged in a comparative study of member-state laws on adoption with a view toward EU legislation in the area. The panelists covered, for example, the right to consent to being adopted, rights of a non-custodial biological parent in the adoption process, access of adoptive children to their biological identities, the pros and cons of adoptions by single people, cohabiting couples and same-sex couples, and the psychological effects of adoption on the child.

**¶10.** (U) During the discussions on international adoptions, the panelists discussed the 1993 Hague Convention on Adoption, to which 81 countries are signatory, and the safeguards it put in place. The general consensus among the panelists was that international adoption was the third-best solution for the child, after reintegration into the biological family and in-country adoption. The speakers discussed the corrupting role large sums of money play in international adoptions, the need to protect all parties from unscrupulous intermediaries and the importance of

transparency in this area. They also discussed the desirability of "receiving states" (states whose citizens adopt internationally) providing assistance to "sending states" (states with children being adopted internationally) to help children from impoverished families remain in family units. One idea put forward was that, as EU member states harmonize their adoption regulations and standards, it may be possible to create a central adoption authority for the entire EU and treat the EU as a single area for adoptions. In that scenario, adoptions from one EU member state to another would not be considered "inter-country." Both the EU Commission and EU Parliament have done studies comparing the adoption regulations in the various EU member states.

¶11. (SBU) A number of panelists spoke about the situation in specific countries, including Bulgaria, Hungary and Romania. There has been a moratorium in Romanian international adoptions since 2002 due to corruption in the adoption system. Now that more effective safeguards are in place, the government of Romania is examining the possibility of allowing international adoptions . To date, no decision has yet been taken regarding families whose international adoptions were in the "pipeline" when the moratorium was put in place. That decision was defined as "political."

¶12. (SBU) Comment: Participating as an observer at EU-sponsored conferences provides an excellent opportunity for an on-the-ground view of how the EU is having to deal with issues under the new direction of the Lisbon Treaty. In addition, it affords the U.S. an opportunity to identify areas and methods in and by which the U.S. and EU can further work together. End comment.

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